

FUNDAMENTALS OF TRIAL ADVOCACY COURSE

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CLOSING ARGUMENT

Presented by:

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Closing Arguments Roadmap

1 Threat in the courtroom _____

_____ causes Reasonable Doubt

Three areas of concern

1. _____
2. _____
3. _____

How do you fight _____

Six Ps Principles: Prior Planning Prevents Piss Poor Performance.

Roadmap for Preparing Closing Arguments (TSET):

1. _____
2. _____
3. _____
 - a) _____
 - b) _____
4. _____

THEME:

What did the defendant do that deserves punishment?

What scares you about the case?

What are the defenses?

What are the issues?

Why do _____ care about the case?

STORY:

What story do you tell? _____

What do you need to translate to the jury?

1. _____

2. _____

3. _____

Paint a _____ of what happened:

Play up all 5 Senses: See, Smell, Hear, Feel, Taste

Use Quotes.

Combine Quotes and Photos

Jolt them with entertainment. Don't be boring.

ELEMENTS:

Review the Elements of the Counts.

Tell the jury the evidence proves beyond a reasonable doubt the defendant is guilty.

Separate the elements by:

1. _____

Go over the elements the parties _____ about.

Go over the _____ that shows it to be true.

2. _____

Go over the _____

Throw down your _____ again

Show them why you WIN by going through the evidence/fact.

THEME

Things to Avoid and Things to Do:

Avoid:

1. _____
2. _____
3. _____

To Do:

1. _____
2. _____
3. _____

Defense's Closing Arguments:

Ignore _____ attacks on you, the victim, the officers and the witnesses.

Listen during defense closing for:

Things being said

Things not being said

Facts and evidence defense is agrees with the State

Facts and evidence the defense concedes to during closing

Facts and evidence the defense are not contesting

Whether or not the defense is correctly stating the law and the facts

Rebuttal

Yes!! You can and should prepare your rebuttal close.
Failing to Prepare = Preparing to Fail

Roadmap for Rebuttal:

1. Theme

This isn't a case about (fairly stated comment of defense argument), this is
a case about _____.

2. Rebuild Credibility

Uncontested Elements

3. Get to Gettin'

The only issue left for you to decide before you sign the guilty verdict is....

4. Theme

More things to Avoid:

Burden shifting

Vouching

Commenting on defendant's silence

Calling defendant and counsel names

Invoking emotional pleas on the jury

Unfairly describing the defense's theory of the case

Personal comments on the evidence

~ Always remember your goal ~
Destroy Confusion

Closing Arguments

Six Ps Principles

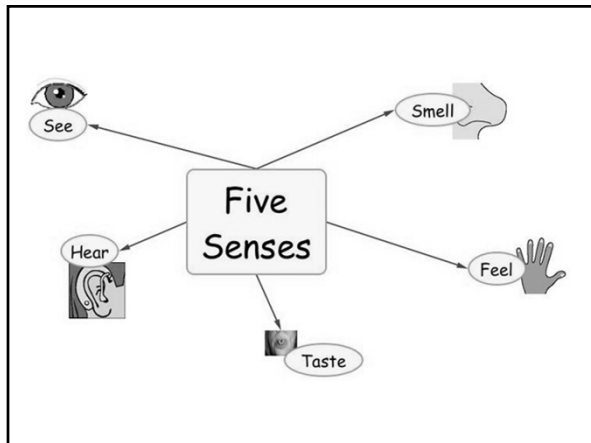
**Prior Planning Prevents
Piss Poor Performance**

Create a Theme

- What did the defendant *DO* that deserves punishment?
- What scares you about the case?
 - What are the defenses?
 - What are the issues?
- Why do you care about this case?

Theme

- What did the Defendant do that deserves punishment
- These are the FIRST words out of your mouth
 - As the first words out of your mouth, they are the ones the jurors are most likely to remember. Do not waste them on thank yous and apologies
- Should be substantially the same as opening, but may require refinements in order to take advantage of what came out in evidence



Things to AVOID...

Address Defendant's Argument in Detail

Rambling = unprepared

Things to do:

- The evidence shows this man (theme).
- Use your evidence
- Combine Your Theme with the Evidence

Defense Closing Arguments

Ignore Personal Attacks:

You
Victim
Officers
Witnesses

Your Job is to Listen

Being said
Not said
Agreeing with
Things they concede
Things not contesting
Correctly state the law/facts

Rebuttal

This isn't a case about _____,
it's a case about ***YOUR THEME.***

Uncontested Elements

"I told you these elements were not in dispute..."

"Defense said they agreed with this element..."

"Defendant did not contest this evidence..."

**The only issue left for you
to decide before you sign
the guilty verdict is....**

Dealing with Defenses:

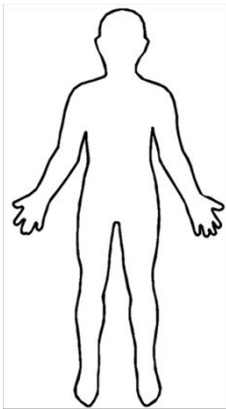
- Poor Investigation
 - Show the jury all the evidence they have as a result of the investigation
- Lack of Scientific Evidence
 - Defendant planned it this way
 - Gloves, mask
- Witness Credibility
 - Defendant chose victim he thought wouldn't be believed
- Accomplice Liability
 - Show how they worked together
 - Defendant gets full credit for all co-defendant's actions
- Remind them of Voir Dire / Oath

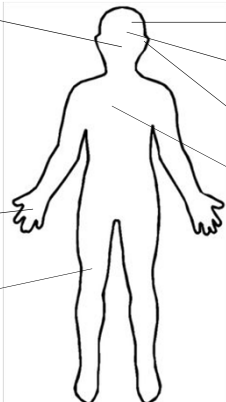


Example:

- "Defendant claims his BAC is inaccurate because of possible errors with the intoxilyzer"
- "However, here is all the evidence you have heard showing you the intoxilyzer was working properly on the night of the defendant's test"

Your list:



<p>MOUTH: Strong Odor Slurred speech</p> <p>ADMISSIONS: I was the driver Drank: 1 beer Couple of beers 2 sweet drinks ½ vodka drink</p> <p>HANDS: Fumbled with DL/Reg/Ins</p> <p>Large Muscle: 3rd to go .08+ Leg: heavy sway; poor balance Tongue: slurred speech</p>	 <p>JUDGMENT 1st thing to go at .02</p> <p>EYES: BSW, pupils, HGN 6/6</p> <p>EARS: 2nd to go at .05 fine motor skills</p> <p>Lungs: BrAC .124 3:51 AM .118 3:58 AM</p> <p>5-7 drinks</p> <p><u>DIVIDED ATTENTION:</u> Mental & Physical Tasks</p>
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Things to Avoid During Closing Arguments

- **Burden shift**
- **Unfairly describe defense argument**
- **Invoke Emotional Pleas on Behalf of Others**
- **Put Jury In Fear of Future Reprisals Should They Acquit Defendant**
- **Call the Defendant Names**

- **Stating Your Opinion**

"I believe the evidence has clearly shown the Defendant to be a liar"

- **Vouching**

"You must believe Officer Smith because he is a witness for the State, and we all know the prosecution are the good guys"

- **Hyperbolic Descriptions about Defendant or the Case**

– "just look at those eyes. They are the eyes of a killer."

- Personal Attacks on Defense Counsel

"He lied to you throughout this trial"

- Comments on Defendant's Right Not to Testify or Invocation of His Rights

"If Defendant had nothing to hide, he would have just answered the officer's questions."

Always Remember
your goal

Questions??

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